

NEWINGTON TOWN PLAN AND ZONING COMMISSION

Regular Meeting

November 14, 2012

Chairman David Pruet called the regular meeting of the Newington Town Plan and Zoning Commission to order at 7:00 p.m. in Conference Room L101 at the Newington Town Hall, 131 Cedar Street, Newington, Connecticut.

I. ROLL CALL AND SEATING OF ALTERNATES

Commissioners Present

Commissioner Carol Anest
Vice-Chairman Michele Camerota
Commissioner Michael Camillo
Chairman David Pruet
Commissioner Stanley Sobieski
Commissioner Frank Aieta-A
Commissioner Audra Ekstrom-A

Commissioners Absent

Commissioner Cathleen Hall
Commissioner David Lenares

Staff Present

Craig Minor, Town Planner

Commissioner Aieta was seated for Commissioner Lenares and Commissioner Ekstrom was seated for Commissioner Hall.

II. APPROVAL OF AGENDA

No revisions.

III. PUBLIC HEARING

None

IV. PUBLIC PARTICIPATION (for items not listed on the Agenda; each speaker limited to two minutes)

Ed Horn, 35 Crestview Drive: Good evening. I have a question for the Commission. Since the Wetlands Commission restarted a process why doesn't the Zoning Commission start all over again hearing about the Toll Brothers. According to some reports, Toll Brothers has been known to not honor their agreements when it comes to dedication of land use in other states and as far as you are concerned then, they can build the houses that they originally, the original proposal, they can add those houses onto the new proposal. They have cul-de-sacs, some of the lots are empty, they have no plan, on the new proposal they don't plan on building on those, but it wouldn't take much to just cut houses in those cul-de-sacs that show as open space now. I mean, there has got to be, even if this does go through there has got to be some way that you can stop them from adding houses on like they have been allegedly

done in other states. I am just wondering, as far as you are concerned, they can build the houses on the first proposal that you accepted?

Chairman Pruett: That's what we passed and we gave them, providing they comply with the twenty-one restrictions we gave them, that's the approval. They have to come back before us and submit and show that they have complied with those restrictions.

Ed Horn: Yes but, with a new proposal, can't you lock them into those amount of houses without okaying the additional houses that were in the first proposal? Do you know what I am getting at?

Chairman Pruett: Yes, it's not a new proposal, it's an existing proposal.

Ed Horn: Well it's a new proposal because it is less housing now. I mean, how can you lock them into not building on those lots, because in other states it's been alleged that they just buried the town in paperwork and they just built the houses that they had originally dedicated for open space. I mean, isn't there a way that you can lock them in at the very least.....

Chairman Pruett: Our Town Planner did have a meeting with the attorneys involved and he'll reply to that.

Craig Minor: I think it will be helpful if you remember in Connecticut we have a separation of powers. The Planning and Zoning Commission has powers given to them by the state statutes to regulate land uses, and the Conservation Commission, they have powers to protect the wetlands in the Town of Newington and those are totally separate boards, they really don't have any overlap. One board can approve, the other can deny. This board last fall approved the subdivision plan for the Newington Walk subdivision, and that plan was approved as the Chairman said with twenty-one conditions and so long as Toll Brothers comes back with a final plan that addresses all twenty-one of those conditions, to this Commission's satisfaction, that's then the end game for the their Planning and Zoning approval. Now if they don't get permission from the Conservation Commission then their Planning and Zoning approval is useless because they need both approvals of both boards because both boards are completely separate and autonomous so from this Commission's point of view it's the same application. It's the application that this board approved last year that, when Toll Brothers brings in the final plans will be the final end of that long process.

Ed Horn: I just don't think we should trust them, that, if there is any way that you guys could do that, I mean, they probably have futures cut out into the sewers and everything else, for those cul-de-sacs. They show two houses on each side of the cul-de-sac, and nothing in the middle.

Craig Minor: Well, I think I know what you are referring to. What you are looking at is the extension on paper of those roads to the Old Highway, and that would be deeded to the Town, so if the Fire Department or some other emergency vehicle needed to get to the cul-de-sac but it was blocked at the top for some reason, we'd have a legal means to get in there. There is no way to put additional houses there, that's just so that the town would have access.

Ed Horn: If you look on the plan, it shows on Trap Rock Road I believe, Trap Rock Circle, it shows the cul-de-sac going up, the cul-de-sac is still an added expense by them probably, constructing that cul-de-sac is probably having sewers go all the way around it and then there are just two houses and then the other one is for the other lots coming to the buffer zone that

they propose. It wouldn't take much at all to just put a house there. I'm just wondering if there is some way legally you can make it not so easy for them. Thank you.

Chairman Pruet: Thank you.

Rick Spring, 47 Deepwood Drive: I'm here to support the letter that Wethersfield wrote to Craig Minor on November 2nd requesting that TPZ require Toll Brothers to reapply. I agree with everything that Ed said, he's right if you look at the plans, the plans have changed. They are actually changing right now as we speak based on last night's Conservation Commission meeting. They are going to continue to change. I believe that you people need to make them reapply. This needs to go back to public hearing, I mean, these changes are significant, and I don't think that one individual should make the decision on this. I think this Commission should vote on it. This is a serious, serious application that needs to be reconsidered and I think the TPZ needs to take another look at it. I think all of you should probably look at the plans as they have been revised and changed and sit down and make, vote on it yourselves, because I really feel that it needs to be reconsidered and Ed was right on with that. Those cul-de-sacs are open. These guys, if you listened to the consultants last night that Conservation hired, unbelievable. The, one of the consultants, I mean, they questioned quite a few things that the Dru Agency had said so, and I know this is not a Conservation Commission meeting, but I think that instills a lack of trust in what the Toll Brothers have told you. You should really consider, read the minutes, I urge you to read the minutes from that meeting last night and I think you might get the same feeling that I get, it's a very uncomfortable feeling, so I think you should require them to reapply because I feel that this is a new application and I think most of the public would feel the same way. I don't think one individual can make that decision.

Chairman Pruet: Thank you.

Holly Harlow, 11 Edmund St: I'm adding my voice to what Rick just said and what Ed said before him. I opposed the approval of the application last year and I think it was the wrong decision and I'm looking at the application this year, over at Wetlands, and it is totally different and I don't think it is a secret that I am questioning how two different plans become one in the end and become what the Town bargained for, if that's the right word. I know for myself, I'm not an engineer, I can't look at the plans and note to myself what is different, I just know there is a big difference between 62 houses and 48 houses and roads changing and detention ponds moving and drainage changing. On the surface those are big changes and I agree that in my civilian mind that sounds like a new, a whole new story. A whole new ball game that needs to be looked at again so that people like me, who are not engineers, who can't read plans can have it explained to me again, what's different, give us a chance to comment, to question, to probe and like Rick said, over at Wetlands, we are hearing evidence that there were facts withheld or omitted by the environmental consultant that could potentially have revealed more value in terms of animals and plants on the mountain and you know, that's either negligence or it's deceitful and neither one is a good thing. I think you need to look at Toll for what they are. They are a big corporation with lots of money who can play by their own rules, no matter what we write on paper and no matter what they are supposed to do, you know, everybody has probably heard about the EPA permit violations that the settled over the summer, 370 building sites, twenty-three states, clean water act violations because they can. You know, they can afford to pay the fines, they don't care, it's proved over and over again so I think we have to look at them for what they are, and that they can do whatever they want pretty much.

Gail Bedrejko, 21 Isabelle Terrace: I'm here to add my voice to have Toll Brother submit a new application. If this were a simple modification to the existing plan, and one of the

conditions to the plan from 2011, and was virtually identical keeping the public improvement intact, then it would be reasonable to assume that this could be pursued under the 2011 approval, but anyone who is following or attending the Conservation Commission hearings, presentations, and following the discussion during the Public hearing, it's clear this plan has been altered enough to be considered a new plan. It's simply not a reduction in the number of homes. There are changes in the (inaudible) alterations for buffer zones and grading, shifting the location of structures just to name a few. In addition, after last night, hearing the preliminary discussion by Newington hired independent experts, and reviewing Wethersfield's issues, there are a number of questions that Toll Brothers has to go back and respond to which will require additional modifications to the plan as it stands now in order to satisfy all these conditions. The plan is substantially different from the one presented and approved by TPZ in 2011. Given the (inaudible) of the project, the importance to the Town, the distinct possibility of irreversible damage to that ecosystem, and the magnitude of the changes to the original plan, it would be prudent and responsible to require Toll Brothers to reapply.

Gary Bolles, 28 Burdon Lane: I'm also here to support Wethersfield's letter that they sent in. You know, back on October 27th, you did issue a certificate of action for this proposed development of Newington Walk. 2012 the developer presented a totally revised plan that was much different from the one that you approved. The Town of Wethersfield's letter states, and this is very important, this Newington Walk plan is substantially different from the one approved in 2011 and per requirements of Section 5.2.7 of the Newington zoning regulations, special permit triggers the requirement for a new petition and public hearing for special permit applications. Because of the numerous changes this has the appearance of a completely new proposal which lawfully requires a totally new hearing by the Newington Planning and Zoning Commission. I respectfully request that you vacate or rescind the previous Certificate of Action and schedule a new hearing to give the public an opportunity to present new and relevant information with respect to the changes in this new proposal. You know last night, even the hydrologist tried to change the meaning of Federal wetlands. I know what they are, Federal wetlands consist of soil, (inaudible) and wetland permits. He said that the stipulations do not apply, he said that wetlands are the navigable waters of the United States, meaning like the Connecticut River and any wetlands that flow to the navigable waters. As far as Cedar Mountain, he said they are not under the jurisdiction, and they most certainly are, so you know, you've got them saying all this different stuff, they've gotten away with a lot of stuff. All you have to do is read about that \$740,000 settlement, it's like they have money to burn, they go and they ask, how much is it and who do we make the check out to, to solve their dilemma. That's not right, it really isn't. I mean, rather than being here pleading my case tonight, I'd rather invite all you good folks to dinner, really. You are a good group, I haven't always agreed with you, but you are a good group, and I think you do try to be fair. I know that Chairman Pruett, I will give you a complement, I'm not trying to butter you up, but you have always been very pleasant, and I got the inference last night from the Conservation Commission that they don't like us. I'm very serious. It's like they just thought all about the applicant and the heck with the public. It shouldn't be that way. We live in this town, we're the ones that are paying the taxes and paying the most. Thank you very much for listening to me and I hope that you will consider this and know that maybe the Town Attorney might have to look at the letter that Wethersfield sent, but if that is in fact true about that, what they say here, then you really need to look at that and I hope you will. Thank you very much.

Chairman Pruett: Thank you Mr. Bolles. Anybody else from the public wishing to speak?

Peter Gillespie, Town Planner, Wethersfield: Good evening Mr. Chairman, Commission Members. I appreciate a couple moments of your time. I'm here on behalf of the Wethersfield Town Council. I was the author of the letter that was referenced in the record. Our position is

simple, we do think the plan was changed from the plan that was approved as was mentioned earlier. Our request is that there are issues that are not Wetland issues, that have not yet been resolved and we would like a forum for the venue to air those concerns with you. We have continued to meet with Toll Brothers, we have met with them, we are discussing the issues with them, they did submit to us some revised plans last night and we are in the process of reviewing them. If we can't resolve our issues, we simple want the opportunity at some time down the road to discuss those with an unbiased entity, with this particular Commission to discuss and make sure our concerns are addressed at some point in the process. Whether you ask for a new application or however you handle it we don't particularly care because we would like that opportunity at some point to have that conversation with you. As I say, we look forward to working with you when the opportunity presents itself and we will continue with (inaudible). I'm here, I'll stay for the meeting, if you have questions of me or my letter, I'll be happy to participate in a discussion at the appropriate time.

Chairman Pruet: Thank you. Anyone else wish to speak at this particular time?

Rose Lyons, 46 Elton Drive: I understand that the public participation is limited to two minutes and that there is not normally a dialogue between the speaker and the board, and I appreciate you being a little lenient tonight with the people here from Cedar Mountain, giving them some answers to their questions. As we go forward I'm sure there are going to be more people coming, more people asking questions. Last night at the Town Council meeting the suggestions was made by one of the councilors that at their meeting after the first public participation, perhaps the Commission, the Councilors could make their remarks. I'm making the suggestion tonight that perhaps you could add Remarks by Commissioners after the first public participation so that if you have some remarks to make in response to what the people are saying at the beginning of the meeting they can be heard. With all due respect to the Save Cedar Mountain group and I'm 110% behind them, it seems to me that at the last meeting when they were here, they sat, they said what they had to say, and I don't blame them for not wanting to sit through this entire meeting, because it does drag on for quite a while at times, but then when you Commissioners made your remarks at the end of the night, and some of them were in reference to Save Cedar Mountain and what was going on, they were not here to hear those remarks, so it's just a suggestion as someone who sits there and listens to what goes on and how different people come in to different meetings and are not quite sure of the protocol when to speak, when you can't speak, how long you can speak and what you can speak of, and in closing it's one thing, once again, a tripod or something would be nice in this room. Last night at the Conservation Commission meeting the maps were up on that window. Maidy Kinney was here at this meeting, went up to the Town Council and told the Mayor and the Town Councilors up there that it was impossible to see. I think it would be nice if instead of all these things along the wall, fifty or sixty bucks could have been spent for a tripod and maybe a digital recorder.

John Bachand, 56 Maple Hill Avenue: I just want to say, it seems like it kind of makes sense, I'm kind of new to this but the idea of asking for a reapplication seems to be, especially with everything about the regulations and everything, but I seems that they have a pretty strong case there. Am I allowed to ask a question?

Chairman Pruet: Well, we'll see what we can do if it's simplified.

John Bachand: I'm just wondering, has the decision been made already that you are opposing the re-application?

Chairman Pruet: No.

John Bachand: No, okay. That answers my question. Thank you.

Chairman Pruet: You're welcome. Anybody else?

Gayle Reduka, 38 School House Crossing, Wethersfield: I live directly across Russell Road from the proposed development. What we have not seen is an extensive traffic study. That area is always congested, there are numerous accidents and the Berlin Turnpike is just a nightmare at any time of day, but to add fifty more houses, two hundred more cars, to that area would just be even more of a nightmare. The bridges that go over Welles Road, Cedar Street, on the Berlin Turnpike cannot handle and have been called (inaudible) and cannot sustain an increase in traffic that would come with a development of this size, however we have not seen anything. Last night I was at the Conservation Commission where they hired independent companies to do some studies. I think that would be prudent of this Commission to also do some traffic studies as well as the impact of this development on the surrounding towns.

Chairman Pruet: Anybody else from the public wishing to speak at this time?

Dr. (Inaudible) Wethersfield: Inaudible.

Chairman Pruet: Anyone else from the public. You will have an opportunity later in the evening to speak too.

V. MINUTES

October 10, 2012

Commissioner Sobieski moved to accept the minutes of the October 10, 2012 Regular Meeting. The motion was seconded by Commissioner Carillo. The vote was in favor of the motion, with five voting YEA and one abstention (Camerota)

VI. NEW BUSINESS

A. Petition 14-12: Site Plan Modification (Revised Site Plan for Medical Office) at 49 Fenn Road. A Walk-In Medical Center LLC, owner and applicant; Attorney Kevin Mason 47 E. Cedar Street, Newington CT, contact person,

Attorney Kevin Mason: I'm representing the petitioner. This is a site plan modification of a plan that was previously approved with some minor modifications. It's my understanding from the Town Engineer that there were three recommendations to the most recent plan. One that was met was to submit a topographical survey map which I believe was delivered yesterday. The number three was the Connecticut Licensed Professional Engineers signed and sealed plans which were approved, and the last one was that the storm sewer have three quarter stones in it, and that will be added to the final plans. I did speak to Mr. Perrugini from (inaudible) and Sampson who told me that will be added to the final plans and I would ask that the Commission approve the modification for the site plan.

Chairman Pruet: Okay, we'll hear from our Town Planner for staff comments on this petition.

Craig Minor: The Town Engineering Department has spent a number of months working with Mr. Perrugini, the engineer for the project. The only change, I don't know if the Commissioners remember the previous plan but really, the only change is that the building is a little closer to the street which doesn't look like much, but the impact of that is that the

retaining wall behind the building which was a problem for the Commission has been eliminated so it is a much simpler site now. It took a lot of work to get it to the point where it is a simpler site, it took a lot of drainage review, a lot of going back and forth between the town engineering staff and the applicant's engineer, but the final plan, again for those of you who were here last year, it's, it doesn't look very different, but in fact because of the elimination of the retaining wall in back it's a much simpler site and as Attorney Mason said, there are three missing items from the plan which the Town Engineer has mentioned, but these involve, literally the seal on the mylar, a detail showing the kind of stone that needs to go around one of the underground pipes and the third was something along those same lines. I'll have more information for you.....

Attorney Mason: The survey.

Craig Minor: Thank you. So the staff has no objection to moving forward.

Chairman Pruet: Okay, I would say, Commissioner comments before I speak.

Commissioner Aieta: It looks like they added, future location for a solar panel, pole mounted, I'd like to see more information on that. It's right on Fenn Road, so I don't, it was not part of the original application. Also, the reason that the retaining wall was eliminated because the applicant and his contractor graded onto the state property to eliminatde the hill that was behind their property, and that caused the elimination of the wall. Why did it have to be moved, why did the building have to be moved closer to Cedar Street in the case that, now that you removed the hill, that you could be closer to the back property line.

Attorney Mason: I don't know. There was some issue with the survey as done by Bongiovanni recently changed slightly in regards to the property boundaries.

Commissioner Aieta: Did you add any additional property to this site when, I heard that you bought some property from the State.

Attorney Mason: No, what happened was, the second survey was done after the plan was approved originally and it showed that there was a conflict between the two surveys. One showing that we were getting more land from the original deed, and then I guess the two surveys compromised and came up with a survey that they could both agree to and feel comfortable with and, the second survey was done by the Bongiovanni. These plans are done based on that survey. I know it altered the land a little bit, increased it very slightly, and I'm assuming that is why it got moved slightly. I don't know for sure.

Commissioner Aieta: You don't have any details on the solar panel poles? The actual size, because this is a new item to the site plan. It says future location, but if we approve this plan we're approving those poles.

Attorney Mason: I don't, I'll have to get that for you.

Chairman Pruet: I think we will have an opportunity to view that information for our next meeting because I.....

Craig Minor: No, tonight this is the deadline. This is the absolute last regular meeting that the Commission can act on this application. If the board feels that there is important information missing then you.....

Commissioner Aieta: I would ask the applicant for an extension.

Craig Minor: No, we're past that point. We're at the point where he has to either withdraw it, or you deny it without prejudice.

Commissioner Aieta: I mean, it's not a complete application if we don't have this information. I'm not going to, I can't sit here and approve this without knowing what those panels look like, the height of the poles, I mean, this is right on Cedar Street.

Commissioner Sobieski: What is the traffic impact? Do you know that?

Attorney Mason: No.

Commissioner Sobieski: You don't know how much traffic is generated, how much traffic goes onto Cedar Street at all?

Attorney Mason: It's a walk-in center, they may have you know, one, two, three an hour.

Commissioner Sobieski: No, have you done a traffic study, that's what I'm asking?

Attorney Mason: I don't think so.

Commissioner Anest: Under staff comments, you knew that there were going to be solar panels, right?

Craig Minor: Yes.

Commissioner Anest: You didn't question.....

Craig Minor: No, I personally didn't think it was an issue, but I perfectly respect your feeling that it is an issue, but for me it was not.

Chairman Pruet: Anybody else?

Attorney Mason: We are going to have to do something tonight, because if we are going to reapply and start over again, it's going to cost some money. We have already spent.....

Craig Minor: You can approve it subject to him coming back with plans with the solar panels, but would that satisfy you? That certainly is a legitimate condition.

Commissioner Aieta: But what if he doesn't.....

Craig Minor: Then he will never be able to get a building permit.

Attorney Mason: I would be agreeable to that, certainly that would be something that we would do. I don't want to have my poor client start all over again.

Commissioner Aieta: You don't have to start all over, you would have to come back and provide us with the information. This thing has been going on....

Attorney Mason: This is Dr. Calle, the applicant.

Dr. Calle: Just my own observation, we've worked on this considerably, and it's always great to have meetings before, I assumed that everything was well worked out, with the traffic questions, I've spent thousands of dollars on this process and if anything could be done in

the future to prevent a meeting like this, so it could be done beforehand as Ed Meehan had done, and the previous engineer because the new process here is costing me thousands of dollars by, if we could actually meet before we meet so this is all ironed out. So you don't have any questions because it's my experience is that it worked out great with Ed. Here it's like there are like endless, perhaps Craig and I could meet, and iron it out so this will never happen again, because I do plan to develop many properties in town and I want to make sure it goes smoothly.

Craig Minor: Excuse me, then don't push this Commission to the brink of having to make this decision. You asked for at least four extensions.

Chairman Pruet: That's right.

Craig Minor: Any one of those meetings.....

Dr. Calle: You never sat down with.....

Craig Minor: Excuse me, any one of those meetings, you could have come, you could have started to discuss the plans, Commissioners could have said, we'd like more information on the solar panels, you then would have had plenty of time to provide that, but you asked for extensions.

Dr. Calle: I spent \$750.00 making three copies of six plans, and I thought everything was resolved. I literally have gone to the local map guy and spent \$750.00 on three sets of plans here, I thought everything was pretty well worked out was my impression, but look, I'm just here to help.

Chairman Pruet: The point that the Town Planner is making is that this has been extended numerous occasions, that you weren't ready on a few occasions and we extended this right to the brink and you put us in this position, unfortunately you put us in the position where at the last minute here, with the extensions....

Dr. Calle: I just want you to appreciate the thousands of dollars that I have spent and I thought that by then anything would have been ironed out ahead of time. I wouldn't want to be in this situation. I even have a lawyer helping me with this so that we can prevent this in the future, perhaps we can just iron out everything before we get here.

Craig Minor: But there is no way to iron out before you get here, that's what the here is for.

Dr. Calle: He had a question about traffic issues, again, the engineering whatever, would be resolved before we even get here so we have that answer.

Craig Minor: But that's, that was Commissioner Sobieski's question, but that's really not a concern for the board because.....

Dr. Calle: I'm just trying to be helpful is the impression that I want to leave with you.

Craig Minor: Then can I suggest what you might want, withdraw the solar panels for now, hopefully tonight with an approval and then come back at your convenience for a mere amendment to the plan to add the solar panels because that is a much simpler process.

Attorney Mason: What we can do then is to withdraw the solar panels, resubmit it and hopefully it will be approved.

Craig Minor: Yes, with the information on the solar panels to satisfy the Commissioners.

Chairman Pruet: We would discuss that item at a future hearing.

Attorney Mason: Just so, the delay was essentially caused by trying to obtain a deed that would clarify the property boundaries, and we didn't have that for several months, four months, and that is why we continued to postpone this, waiting to get the property.

Chairman Pruet: But we still have to go by the rules and regulations.

Attorney Mason: I understand that, but we would be more than willing to pull those off of the plan and discuss them at a later time.

Chairman Pruet: If the Commission is amenable to move this to Old Business and we can discuss this at that time. We will move it to Old Business and vote on it tonight.

Dr. Calle: Do I need to remain here.

Chairman Pruet: I would think that you would.

B. Petition 33-12: Modification to Approved Grading Plan (Section 6.5: Filling of Land) at 712 Cedar Street. Fenn Road Associates LLC, owner/applicant; Patrick O'Leary 54 Tuttle Place, Middletown CT, contact person.

Patrick O'Leary: Good evening Mr. Chairman, Commissioners, I'm here again tonight, five weeks after the original presentation associated with this, to answer questions from the Commission, as well as some unresolved staff comments. I would like to thank those on the Commission for pushing this off another month, because having heard discussions tonight, this is one time where it really did help to wait. We're coming back with the assistance of staff, input from the staff, a new idea which accomplishes the exact same thing that the developer wanted to do, what the Town wanted to do, but it's better than it was five weeks ago. What we have alternately done on the site here is, if you remember last month, the developer was proposing to put some fill on the site to prepare this for future construction pads. There is an associated site plan associated with it for retail, possibly a hotel if I remember correctly, and this is in preparation for future development. We have the busway drive coming down here to the future terminal and the proposal is to place some fill on the backside here on the development to bring it up to the grade that it would be during the development time frame. We discussed last month, we are proposing a swale down along the National Welding building to catch storm water that comes from the site into the swale, discharge over here into the state system. Storm water on the site flows from Fenn Road, comes down in this direction and alternately today in the existing condition comes down over the bank to the National Welding site and makes it way over to what was formerly a wetland, is now a stone lined sump because of the state drainage system. What we have done is, we have changed it and we are pitching the water so we are emulating the as built condition of the development by catching the water at the top. When this is fully developed, this will be paved, these little parking areas over here, the storm water will be caught in those parking areas via catch basins and this is also the drainage pattern that is evolved. There are rights to drain over the DMT property and the DMT system, I have a copy of the deed with me, if you should like to see that for any reason, I'd be happy to pass that out to you. Amazingly we have a system here that is going to emulate the final design, eliminate the storm water from coming down adjacent to the National Welding building, a very small portion of the site comes down here now relative to what came down here before.

Commissioner Aieta: Where is the property line?

Patrick O'Leary: The property line is right here, running across there, so there is possibly fifteen feet of land on this bank here where storm water still comes down here as opposed to this entire site. So we have reduced virtually to no storm water going down to the National Welding site. We can't move the swale any closer to the property line, obviously you would have the problem where the bank of the swale would not be stable if it was too close to the steep slope, so while we have room here, we have a very deep swale. The swale itself is constructed after these last storms, and this is probably a super swale for this site. I can't imagine that it will ever be fully utilized, but I think, lesson learned over the past couple storms that have happened, who knows what this is going to look like, a couple of years, or if development takes place this year, next year, the year after, who knows what storm is going to happen within that time frame so we're actually concerned with the design as well, so we can ensure storm water runoff will be removed from the site. With that, there may be a couple of additional drainage calculations that the engineering staff would want to review. Mr. Chairman, I would be happy to answer any questions you might have.

Chairman Pruet: Staff comments?

Craig Minor: This concept, the Town Engineer did agree that he prefers this design. It, as opposed to the earlier design, it keeps the majority of the, I'll call it the 712 Cedar Street storm water on 712 Cedar St., less of it on 690 which is our property. The only change, well, the other changes as you can see on your little version of the bigger one, there will now be an outfall on the town property. It's not a problem, but that outfall wasn't on the plans that the Town Council approved so I would, if this does get approved by the Commission that the applicants make sure that the Town Council has no problem with you putting in a discharge on town property, but I don't see any problem with that. Again, as long as we get the legal documents, the drainage easements and that be recorded, staff has no objection to going forward.

Attorney O'Leary: With respect to that, if the Town Council has an issue with that, we do have room to slide it over closer to the DOT right of way. This is simply putting a bend in the pipe, water doesn't like a bend, it would rather go straight, if the Town Council did take exception to that, we do have room to bend the pipe and discharge to (inaudible), so it doesn't present any problems if there are exceptions.

Commissioner Sobieski: Who is going to maintain the swale.

Attorney O'Leary: This swale is on Fenn Road Associates property so it is fully their responsibility to maintain that swale, and as one of the issues referenced by the engineer, they would like to see a storm water maintenance agreement provided prior to construction. I don't know if this is going to require a zoning permit, but prior to commencement of construction there will be a storm water maintenance agreement.

Commissioner Sobieski: And the maintenance agreement will have it cleaned out once a year, or as required.

Attorney O'Leary: Absolutely. Our maintenance agreements are quite detailed, with respect to cleaning out the swale, the inspection and if there is any further reporting required beyond that, we would get back to the Planner.

Commissioner Sobieski: Is this geared for a twenty year rain fall, a fifty?

Attorney O'Leary: To be quite honest, when I called this a super swale, it is a super swale. This will handle in excess of a fifty year storm.

Chairman Pruet: Further questions? What is the opinion of the Commission of how to handle this petition under New Business. Do you want to see it moved to Old Business? We have the engineer and the Town Planner agree that it meets the litmus test for success. Move it to Old Business?

Commissioner moved to move Petition 33-12 to Old Business. The motion was seconded by Commissioner Camillo.

Commissioner Aieta: There will be conditions on here for approval by the Council for the outfall on the property that's not showing here?

The vote was unanimously in favor of the motion, with six voting YES.

VII. OLD BUSINESS

Commissioner Aieta: Mr. Chairman, before we read this, we have to have the removal of the solar panels.

Craig Minor: We can make that number 2.

Petition 14-12 Site Plan Modification Medical Office at 49 Fenn Road A Walk-In Medical Center LLC, owner/applicant

Commissioner Camillo moved that Petition 14-12: Site Plan Modification (Revised Site Plan for Medical Office) at 49 Fenn Road. A Walk-In Medical Center LLC, owner/applicant, Attorney Kevin Mason 47 E. Cedar Street, Newington CT contact person be approved with conditions.

FINDINGS:

The Town Plan and Zoning Commission previously approved, with conditions, a site plan at this location on January 26, 2011.

The revised plan eliminates the proposed retaining wall, which was the subject of some concern for the Commission in 2011.

CONDITIONS:

1. The plans shall be revised or otherwise modified to address the Town Engineer's letter dated November 8, 2012.
2. The solar panels are to be removed for future consideration by the Commission.

The motion was seconded by Commissioner Camerota. The vote was unanimously in favor of the motion, with six voting YEA.

Petition 33-12

712 Cedar Street

Modification to Approved Grading Plan at 712 Cedar Street

Commissioner Sobieski moved that Petition 33-12: Modification to Approved Grading Plan (Section 6.5) at 712 Cedar Street; Fenn Road Associates LLC, owner/applicant, Patrick O'Leary 54 Tuttle Place, Middletown CT contact person be approved with conditions.

FINDINGS:

The Newington Town Council granted the applicant slope grading rights onto 690 Cedar Street on August 28, 2012.

The revised grading plan dated November 12, 2012 shows a new drainage design that collects much of the stormwater runoff on the applicant's property at 712 Cedar Street, and discharges it at a riprap outlet on the Town's property at 690 Cedar Street. This design was not available for the Town Council's review when the slope rights were approved.

CONDITIONS

1. The applicant shall submit a Drainage and Maintenance Agreement as requested in the Town Engineer's letter dated October 9, 2011.

The motion was seconded by Commissioner Anest. The vote was unanimously in favor of the motion, with six voting YEA.

VIII. PETITIONS FOR PUBLIC HEARING SCHEDULING (November 28 and December 12, 2012.

- A. Petition #30-12: Special Exception (Section 6.13: Accessory Apartment) at 131 Stonehedge Drive. Paul Bongiovanni 40 Grant Street, Hartford CT, owner applicant/contact
- B. Petition #31-12: Special Exception (Section 6.6.2 Sale of Alcoholic Beverages) at 137 Kelsey Street, Adorna Carroll, owner; Tasneem Fatima, applicant; Sheikh Ali 137 Kelsey Street, Newington, CT, contact person.

Craig Minor: We have two. The first one is an application for an accessory apartment at the home of Paul Bongiovanni at 131 Stonehedge Drive. This application, the zoning regulations require that accessory apartment applicants submit a lot of information. They have to submit photographs of the existing house, they have to submit a floor plan of the proposed addition, they have to submit an A-2 survey of the property, they have to submit a letter from the building inspector saying that the floor plan complies with code. I have at this point most of that information, I still don't have all of it. I still don't have an A-2 survey but I would suggest that the Commission go ahead and schedule the hearing because frankly, I don't think a neighbor needs to see an A-2 survey to know whether he or she thinks this is a good project or not. We have the floor plan, we have photographs of the house, maybe Mr. Bongiovanni can speak to, well, he's here but I'll leave it to the Commission whether you want to talk to him or not, but it's a substantially complete application. I believe it is complete enough that it warrants scheduling the public hearing and I'll work with Mr. Bongiovanni in the next days to get the one or two remaining items, and if they are still not available at the hearing, then the Commission can do whatever it needs to do at the hearing.

Chairman Pruet: Okay, what's your pleasure on this?

Commission: We can schedule this.

Chairman Pruet: We aren't going to discuss this tonight sir, we will put you on at the next meeting.

Craig Minor: I'll talk to you tomorrow about the details.

The next one is an application for a special permit to be able to sell beer at an existing convenience store. Now I just want to bring to the Commission's, and I recommend that you schedule the hearing for your next meeting in two weeks, but I want to bring to the Commission's attention that the application does not meet the requirement that there be at least five hundred feet between like alcohol uses and initially I told the applicant that he is not eligible but there is a provision in the zoning regulations for alcoholic beverages that does give the Commission the ability to waive that distance requirement if the Commission feels that the applicant has presented a good case and is worthy of a waiver, and it's not for me to deny the applicant the opportunity to persuade you that he's deserving of a waiver so I recommend you schedule the hearing and let him make his case at the hearing.

Commissioner Aieta: Just an observation. This is, we've had over the years I don't want to say hundreds but several alcoholic beverage establishments come in and we've never not gone by the requirements of the separation of the, I can remember a case in the center of town where they wanted to put a package store across the street from the church, we had complications there, I can just tell you that we never set this precedence in the past, never been done, especially this close, it's in the same building, right next to the package store.

Chairman Pruet: But technically you have to allow the applicant.....

Commissioner Aieta: You have to allow them, but I'm just telling you the history here.

IX. TOWN PLANNER REPORT

A. Bond Release for Lada Motors (426 Hartford Avenue.)

Craig Minor: Let me start with the bond release. This is a, this is one of the duties of the Commission when a commercial site is approved by the Commission, site plan approval was issued last year, maybe two years ago, and I believe with this one the applicant suddenly realized that he has \$36,000 in bond that is waiting to be given back to him so I had the staff go out and inspect the site and there are one or two little things that the Zoning Officer found but he's satisfied that the applicant will deal with it in a timely manner so that the Zoning Enforcement Officer and the Town Engineer, the field people for this both recommended that the bond be released.

Commissioner Aieta: What are the items that are not done?

Craig Minor: I think there was landscaping around the sign that didn't get planted, something of that nature.

Commissioner Aieta: And that's it? What are they asking us to reduce it to?

Craig Minor: The full amount. The full \$36,000.00.

Commissioner Aieta: And we're going to take his word that we are going to put the landscaping in?

Craig Minor: If you want to retain \$5,000.00 until the next meeting, or until he complies with that last item, that's not unreasonable.

Commissioner Aieta: I don't know if he can do the planting now, or if it would have to be done in the spring or.....

Craig Minor: Well at this point it would have to be done in the spring.

Commissioner Aieta: So we could hold the money until the spring.

Craig Minor: Yes.

Chairman Pruet: I think \$5,000 is an acceptable amount.

Craig Minor: So can I have a motion to that effect?

Commissioner Sobieski moved to release all of the bond money with the exception of \$5,000.00 to be held until the plantings have been completed on this property. The motion was seconded by Commissioner Camerota. The vote was unanimously in favor of the motion, with six voting YEA.

Commissioner Sobieski: I have a question for Craig, Mr. Chairman. How many bonds do we have outstanding in town, do we know?

Craig Minor: No...

Commissioner Sobieski: I know of one other one, that's why I'm asking.

Craig Minor: No, I don't know how many there are. There are a lot, I got a letter, a listing from the Finance Department of, a few months ago, and there is a long list of bonds and I've been working my way through it, talking to some of the owners, asking if they are ready for release, but we're holding quite a bit of money, which surprises me. Usually if a developer or a property owner finishes the job, he, my experience in Cromwell, there was never any dust on those bonds, they got released, or the applicant asked for them as soon as possible. Newington people seem to be more casual in getting their money back. I mean, this one, \$36,000, he forgot, I don't want to impugn him, but he forgot.....

Commissioner Aieta: What kind of bond is it?

Craig Minor: Cash, cash bond and the interest does accrue to him so maybe that's why he didn't mind it sitting in the passbook, but.....

Commissioner Sobieski: I think the issue here is that when people do apply, they expect the town to get in touch with them to release the bond. I think there is a lot of lack of communication. I know of a couple, Rip Callahan up on, the bond is still being held on the cul-de-sac on this road.....

Craig Minor: Well that one is in his court now. He was told a couple of months ago what he needs to do.

Commissioner Sobieski: What I was told is that he originally set it up as a warranty deed, or a quit claim deed and midway through they changed the process to a quit claim deed.

Craig Minor: The opposite.

Commissioner Sobieski: Well, whatever it was, and you know, to hold a person's money that long after the project is finished and the deed is set in place, I know there were some complications, I'm just asking, do you have a normal time frame from once the final inspection is done to when that bond is released or requested to be released?

Craig Minor: No, it's applicant driven. It's when the work is done, which is sometimes two months later, sometimes two years later, it's when the applicant says, I'm done, can I have my money back basically.

Commissioner Sobieski: So, there is no inspection from that time that that job is started until the job is finished.

Craig Minor: No, there may be many inspections but there won't be an inspection for the purposes of releasing the bond until the applicant asks. In fact, that's in the zoning regulations, the applicant has to submit a written request for the bond release to start the process.

Commissioner Aieta: How does it work, a bond for like landscaping and finishing, is there a time period on that? That could run forever? I think in the regulations it says six months.....

Chairman Pruet: We usually set a limitation on that.

Commissioner Aieta: We have bonds that are, have been out there that should have been called in six months that have been out there for two or three years. Maybe we should get a list of outstanding bonds and we could start looking at them and picking apart because it's, this is the situation that you get into with the bonds, we had a subdivision in the south end of town where they put up a bond for the final course for the road. It went for ten years. The dollars that they put up ten years ago don't equate to the dollars that are ten years later so the property owner or the developer says, well, you know, keep the money, because the money that he has for a bond cannot finish the work that is out there so the Town is stuck with a road that does not have the finished course on it, only a binder course and the developer just says hey, you do it, keep my bond. But that is a deficiency to the Town of X amount of dollars that we have to have come out of our pocket to do the work that the developer should have done.

Commissioner Sobieski: This is my issue Frank, that I was originally questioning because at some point in time especially with the cost of bituminous you have a \$5,000 bond to put a inch, half inch over lay on a cul-de-sac, well ten years ago that would have done it, today it would do about half of it, if that. So now the town, to have that road up to standard so you don't have any legal action on it, you have to pay, the Town has to put in the additional money to finish it off. That's why I was asking if there was a time frame on these.

Chairman Pruet: We probably should review the existing.....

Craig Minor: Okay, but just for your peace of mind, I don't think that there are any subdivision road performance bonds, other than the one that you said, I hadn't heard about that, so I'll ask you about it.

Commissioner Sobieski: The first or second meeting I was here we talked about it.

Commissioner Aieta: I remember that you have some concerns, I brought it up, we had some concerns about the same thing and said the developer is not going to do it because the money is not sufficient to do that job. It's been over ten years.

Craig Minor: Most of the bonds that I'm aware of are things for a shopping center where again the landscaping thing wasn't done and that's why it's been hanging around for years, not something as serious, and it is serious as a top course on a town road that hasn't been installed. That's very serious, but I will have a report for you at the next meeting.

Commissioner Sobieski: The last time I was down there it was rocky.

Craig Minor: Is it Deming, Deming Farms?

Commissioner Aieta: No, this is Occhialini.

Commissioner Sobieski: If the plow blades hit the edge of the concrete catch basins you destroy the blades and not only that, but you start to chip away at the top of the basin.

Craig Minor: Right, not good.

Let's turn to the written report. The first item in general are issues that Commissioners have brought up at previous meetings that I was asked to refer to the Zoning Enforcement Officer. The first item was the signs on the Berlin Turnpike for that costume store in Berlin. Actually, surprisingly, a few days later DOT did come out, they did send a crew out and plucked up all those signs from the middle of the highway, so the age of miracles is not over. The next item, the Mooyah Restaurant, at a meeting a couple of meetings ago Commissioner Hall asked if they needed to get a permit, and it took a bit of peeling back of the onion skin layer by layer but the bottom line is yes, they should have been told when they started remodeling that building that they needed a zoning permit. For reasons of, let's just say human error, they were not told that they needed to come in to get a special permit. They have an opening, a grand opening scheduled for December 10th, so....

Commissioner Aieta: What is this?

Craig Minor: Mooyah, on Fenn Road. So needless to say that when I called them to tell them that I'm from the town, and you need a permit, they were not happy. But we talked it through, and I suggested that I go to the Commission tonight, tell the Commission about this, and ask the Commission if the Commission would be willing to allow them to get a conditional c.o. so they could have the grand opening, with the condition that they apply for the Special Exception and make a good faith effort to obtain the Special Exception and I think that's a safe, you are going out on the limb a little bit, but it was a restaurant before, it was approved by this board as a restaurant, there's no drive through....

Commissioner Anest: It was a tanning salon.

Craig Minor: But you never approved it as a tanning salon, that's the interesting thing. The last use, you never approved it, believe me, that's why peeling back the onion was interesting, but the original approval was for a restaurant.

Chairman Pruett: A rotisserie, Congress Rotisserie.

Craig Minor: It was originally built as a restaurant, they are not proposing a drive through, so I don't see any reason why the board, after the public hearing wouldn't approve the permit because it used to be a restaurant, so I'll leave it up to the Commission what you want me to tell the developer tomorrow morning.

Commissioner Anest: Before the tanning salon, it was a video store.

Chairman Pruet: Originally it was a restaurant, Congress Rotisserie, a short time.

Commissioner Aieta: There's not enough time for them to come in at the next meeting and have a hearing and have an approval?

Craig Minor: Well, it will be the normal process.

Commissioner Anest: Have them come in on the 28th.

Craig Minor: Well, they will submit an application that you will receive, yes, you could certainly do that. You can authorize me, that as soon as I get the application to schedule the public hearing for the 28th.

Commissioner Aieta: I have a problem with conditional anything. I mean, we have rules and regulations and we keep bending them, we keep bending and bending and bending to the point where at some point people won't have to come in at all, they'll just type it into the computer and.....

Chairman Pruet: Let's have them come in next meeting, with the concept that it is not a major change because it was a restaurant originally.

Commissioner Aieta: Then we could go through it at the next meeting and then if everything looks good we could approve it that night and they could still have their opening in December.

Craig Minor: And have the public hearing that night.

Commissioners: Yes.

Craig Minor: Okay, I'll take care of that. Let me make a note of that.

The next item that I was asked to look into, someone saw cars for sale at the Raymour and Flannigan parking lot. Art went out and looked at it. At the time that he went out there, there were no cars with for sale signs in the window, but he will keep an eye on that, and if people see that again, let me know and I'll make sure that Art finds different times to get out there and see it.

It was brought to our attention that there was a flashing sign at Goldburgers. They were sent a letter by the Zoning Officer because, let me talk about this for a second. It wasn't just that the sign was flashing because that, in and of itself probably was okay, the problem was that each letter flashed separately and that creates the illusion of movement and it's the illusion of movement that your regulations prohibit, not flashing so much as an illusion of movement. Well, there is a happy ending, so they agreed to turn the switch off so it no longer creates the illusion of movement.

Commissioner Aieta: Where is the sign? Is it inside the building?

Craig Minor: I believe so. I've never seen it or never noticed it, myself.

Commissioner Anest: Now when you spoke to the Chamber, did you talk to them about our sign regulations?

Craig Minor: Yes, and I left a copy of, sort of a condensed version of them.

Commissioner Anest: Because I know, when I go into stores, people are asking me, when can I put signs up, they have not, I really think we need to educate, say, our town center what they can and cannot do.

Chairman Pruet: Maybe we can recommend to Gail to put out a letter or something, their monthly.....

Commissioner Anest: Or even on line, they have a web site, even if they put it on line.

Craig Minor: That's a good idea.

Commissioner Anest: And they have a new business packet, you know, like a welcome....

Commissioner Aieta: That sign is a digital sign, it's not allowed. The only type of digital signs that are allowed per our regulations are at gas stations.

Craig Minor: I'm not sure that is what the regulation says.

Commissioner Aieta: If it doesn't, we better revisit it.....

Commissioner Anest: You don't know what we went through on this.

Craig Minor: As defined in Section 9, a sign which has intermittent and internal illumination by mechanical or digital controls that produce an illusion of movement such as but not limited to, flashing, running, rotating, so the key is illusion of movement. Flashing by itself, I'm just saying what the regs say, it may not be what you meant, in which case we should tweak them, but coming in as the new person, I'm telling you what it says.

Commissioner Anest: Movement, movement can go this way.

Commissioner Aieta: Flashing, is, we considered, we interpreted it that if it is flashing and it's a digital sign, it's not allowed. The only digital signs that are allowed.....

Chairman Pruet: Okay, we can go over that later.

Craig Minor: Well then, you probably aren't happy with the solution which they said they'll just turn off the feature that has the letters going in rotation, it will just stay a solid, I think they said it will stay a solid color.

Chairman Pruet: And it won't be blinking.

Craig Minor: If it's solid and not blinking, then okay, and I think that is.....

Chairman Pruet: That's what you explained to me.

Commissioner Aieta: The other problem that you run into there is that the sign is not outside. It's inside the window, so that, you get into interpretations of whether it constitutes a sign or not because it's inside the store.

Craig Minor: Okay, there was a banner, House of Pancakes, and Art ordered them to remove it.

Mr. Chairman, do you want me to stop now and take any new concerns of zoning violations that the Commissioners may want to bring up, or let them bring it up under Commissioner Comments.

Chairman Pruet: Why don't you just keep going, this is informative and I think the public would like to hear.

Craig Minor: Okay, then briefly, the status of the Modern Tire appeal of the amendment to the Zoning Regulations regarding motor vehicles. The Town has hired Attorney John Bradley to be our counsel on this matter. I delivered the whole, what we call the return of record to him, I met with his associate on Friday for an update on it, and it's in that never-never land where the attorneys and the judge are trying to work out a time where they can all get together to talk about it, to have a preliminary meeting, so it is apparently no where near conclusion yet. Our attorney is on the case, literally.

The next item I'll talk about is the Newington Walk subdivision which we talked about earlier today. My recommendation is that this Commission approved the plan, back in the fall with conditions. So long as the applicants comply with those conditions it's, not to trivialize it, but it's nothing more than an applicant complying with the conditions that this Commission put on the applicant. If there are parties that think that those conditions were so extensive that they constituted a new application, the appropriate time to raise that objection would have been back when this Commission approved the permit, because that is what you did. You approved the subdivision. So at this point, I won't say arbitrarily because it's an important issue, but at this point, for the Commission to rescind that approval without due process, that's not something that I would recommend that you do. A subdivision approval, it's literally a vested right, it's a thing that has value, that people in the development business literally take to the bank. Once a development has town land use board approval then the floodgates of financing, well, I can't say floodgates, but then at least the banks will return their phone calls. Without subdivision approval, they have nothing. So you can't arbitrarily rescind their approval and make them reapply simply because you feel that the final plan, that they haven't submitted yet but when they do, just because you feel that the conditions that you imposed on them are so significant that it should require a new hearing, that's, and I did talk with the Town Attorney and Jack Bradley's associate on this, and he agrees that the proper process would be to let Toll Brothers submit their final plan, whenever they are ready to, have this Commission go through that final plan in a public meeting, on the agenda, not a public hearing, but open and in full light of the public, have Toll Brothers engineer walk through every condition that was in your approval letter, satisfy this board that they have addressed all of your concerns, and at that point, what I would recommend that you take no action that night, but think about it for two weeks and then at the following meeting take action on it. And then, publish that decision as a notice of decision so that if somebody feels that this is inappropriate they'll have the opportunity to appeal it. Everything is transparent and out in the open, and I ran that scenario by the Town Attorney and he agreed that that was a reasonable scenario. So, I'll stop talking now and let the Commissioners.....

Chairman Pruet: So Bradley and our Town Attorney feel that it's not a major.....

Craig Minor: Well, that's a good question, and I don't want to parse what Attorney Chapel told me, partly because it goes into legal strategy, which we can talk about in executive session. So, let me say, in open session, I ran this by John Chapel, Jack Bradley's associate and Attorney Chapel agrees that that is an appropriate position. But by all means, if you would like to schedule an executive session for your next meeting, he can come and you can all discuss it with him in executive session. No, I'm sorry, it's not potential litigation, so, nope.

You can discuss it in open session come to think of it. I don't, now that I think about it, there is no reason that he can't advise you in open session what the proper procedure is.

Commissioner Aieta: There are two parts to this application. There's the part that they came in for a Special Exception for an open space subdivision. Is that correct? Which we approved. Then there is also the second part of that was the site plan approval, which we approved. Now, they have made substantial changes to the site plan. That has to come back to this board for a complete review of the site plan. They have cut down the number of lots, they've, there are going to be numerous questions that we are going to have to ask, from the old plan to the new plan, so there is no question that they have to come back to this board with the revised site plan. It's not a public hearing, it's a review by this Commission of the site plan. We've already visited the portion of it that we allowed them to have an open space subdivision.

Chairman Pruet: That's correct.

Commissioner Aieta: So I would say at this point when they have their plan complete that they should schedule to come into this Commission for our review of the changes that they made to the site plan, a complete review.

Chairman Pruet: I'm on the same wave length with you, and that's the appropriate way to handle it.

Commissioner Sobieski: There's more than one letter that you gave this Commission, the second letter is.....

Craig Minor: To the Wetlands Commission, to the Conservation Commission.

Commissioner Sobieski: Some of that does deal with drainage and that's where I'm concerned because this drainage issue that is out there is assuming that the Department of Transportation is going to allow them to tie into, a private road, tie into the state drainage system.

Commissioner Aieta: That can all be discussed when we look at the site plan again.

Commissioner Sobieski: But what I'm asking here Frank, is if we assumed, the previous board had assumed that the state would allow them to do that, what is the alternative if they don't allow them to do that?

Craig Minor: Well then the applicant would have to come back for a re-approval, with a new application.

Commissioner Sobieski: In my opinion, for what this is worth, and this is just my opinion, I believe that all the letters to the Conservation Commission should be made public to this Commission. There are some serious conditions that I would think the Town of Wethersfield has questions about. One of the big ones is that technically that road, Russell Road no longer meets the criteria for an integrated highway system, okay?

Craig Minor: Well, I don't know what that means and I don't know.....

Commissioner Sobieski: (inaudible) Statutes clearly states which roads are to be maintained as a state highway and which ones aren't. Part of the general statute which is 13.26 I believe.....

Craig Minor: It's not germane. The Planning function of this Commission is by the section of the statutes that give you your authority, and that's it. If the applicant is unable to comply with other laws out there, such as the one that you are referring to, then they have a problem, but that's not your problem.

Commissioner Sobieski: Let me finish please. One part of the statute says that that particular road was allowed to become a state highway because it fed state institutions that are no longer there. If the state decides to dump the road, and asks the Town of Wethersfield to take it over, and they take it over, what happens?

Craig Minor: Nothing. It's still a town road, at that point, it's a town road in Wethersfield.

Commissioner Sobieski: Then if it's a town road, they would have to go back to the Town of Wethersfield to get approval on that road.

Craig Minor: No. No they wouldn't. At that point, as it is right now, an approved subdivision.

Commissioner Sobieski: A subdivision that is feeding onto a state highway at the present time, but if this road is no longer a state highway.....

Chairman Pruet: We're talking semantics now, if this or that happens, let's progress and see what the state does and we'll discuss that when they come back to this Commission.

Craig Minor: Okay, the bond release we did talk about. Veterans Landing, this is something that I don't know if this board knows about? Ed Meehan knew about it because when I got here there was a file on it, but the Veterans Administration is working with a non-profit in Hartford, the Community Renewal Team, to do an assisted living facility. They did come before you? Okay, good. Well, they're back and they're ready to submit an application. I didn't know that they had presented to you, so I had suggested that we talk about them doing a pre-application but if you're already aware.....

Commissioner Anest: This is in addition to what they are doing now?

Craig Minor: It has nothing to do with what they are building now. It's a different.....

Chairman Pruet: Victory Gardens, and then we have the one in the rear.

Craig Minor: On the other side. Assisted living, one hundred units, on the other side of the hospital, next to the football stadium. So all right, so if the Commission is already aware of it, and doesn't see the need for a pre-app meeting before they officially apply.....

Chairman Pruet: The question is, would you like that information, have them come in and give a brief overview, that's what.....

Craig Minor: Informal.

Commissioner Aieta: What is our decision process? Do they have to get a decision from us? It's federal, it's exempt from zoning.

Craig Minor: Just like Victory Gardens.

Commissioner Aieta: They would have to get an approval from the town?

Craig Minor: Yes, same process. Public hearing, special exception, site plan approval, traffic study.

Chairman Pruet: So would you like a presentation, a brief presentation?

Commissioner Aieta: I don't want to hear it twice.

Craig Minor: Okay.

Chairman Pruet: I think they are going to present to the Town Council, am I correct in that?

Craig Minor: I don't know.

Chairman Pruet: I think they made overtures to make a presentation to them.

Craig Minor: Moving along, Newington Junction planning study, we have not been contacted yet by the consultants that are under contract to provide those services. The Transportation Planner at CRCOG who was coordinating this just left. She went to work for a different transportation organization, and so that may be why we haven't heard yet from the consultants, but I'm sure we will soon, and I'll keep the Commission, and Mike, you're on the committee so I'll make sure that you are kept up on a day to day basis, up to date on that. The low impact development project, I believe, yes I did speak to you about this at the last meeting, this is a, the Town of Newington got a grant to look at all of our land use regulations to find ways to enhance them to include new development techniques to minimize storm water run-off that are more green than what we now have. We're actually no further along than we were on this the last time I reported, we're still waiting for the actual members of that committee to be approved by the powers that be. You will be hearing more about that because obviously the subdivision and zoning regulations are the biggest part of the town land use regulations and so I'm sure there are plenty of areas in your zoning regs where we can find ways to be more green and more storm water friendly. Finally, I did submit the changes to the state's Plan of Conservation and Development that Commissioner Sobieski worked with me on, we submitted them electronically, they were received and they will be included.

Commissioner Sobieski: Will we get a map back to be sure that they did it right.

Craig Minor: Actually they did, they did send back to me the change that I had digitally requested, and I'll share that with you. That's my report.

Chairman Pruet: Okay, any questions for Craig?

X. COMMUNICATIONS

A. Letter from Wethersfield Town Planner regarding Newington Walk.

Discussed under Town Planner Report

XI. PUBLIC PARTICIPATION (for items not listed on the Agenda)

Domenic Pane, 638 Church St.: Good evening Mr. Chairman, Commissioners. I'm glad to see that you realize that if there is substantial change in the plan for Toll Brothers that they would have to come in for site plan review. I'm glad to hear that. I commend the Commissioners talking about the bonds. It's something that hasn't been done lately on this

Commission for a long time. This Commission used to review it twice a year, and by not reviewing it, you end up with problems similar to what Commissioner Aieta spoke about. If you can't take care of these things in a timely manner, after years they become bigger problems. Mr. Chairman, this Commission looks at events periodically and there are a lot of events going on, on the Berlin Turnpike which this Commission hasn't looked at and the only reason that I bring them up is because of safety. The, there are a lot of car events going on, and the problem is, is the events, they are parking the cars within two feet of the Berlin Turnpike. It's extremely dangerous, and I cringe when I go up all summer long seeing the events. This is why this Commission reviews events. To make sure that things like that don't happen because I would hate to see somebody get hit on the Berlin Turnpike because of a social event, so I would appreciate it if you would look into that for the future, just to make sure that people don't get hurt.

One of the other items that I would like to talk to you about is our town center. We have design guidelines that this Commission and applicants follow for development in the town center. One of those properties is CVS in the town center and was approved with design standards, architectural design standards. When the plans come in, the reason for this is to enhance the character of the landscaping, the architecture quality. There were panels on the CVS on two sides of the building. They were architectural colonial panels and they've been removed and I don't think that it is in harmony with the rest of the town center and I would encourage people, after you approve something, to not have people change it. That's about it, thank you very much Mr. Chairman, thank you very much Commissioners, Town Planner, thank you.

Chairman Pruet: Anyone else from the public wishing to speak at this time?

Rose Lyons, 46 Elton Drive: I am sitting in the first row here and I can barely hear what is being said by some of the Commissioners. I don't think these are working, whatever it is it's difficult to hear, but I think that I heard both Commissioner Aieta and Commissioner Sobieski refer to the site plan modification, Petition 14-12, as being on Cedar Street.

Commissioner Aieta: Which one is that?

Rose Lyons: That's where Kevin Mason's office is, on Cedar Street, the clinic is on Fenn Road.

Commissioner Aieta: I would like to have the record amended that it is on Fenn Road.

Rose Lyons: So once you get the easel, you can do something about the microphones. Last night at the Town Council meeting it was said that our Zoning Enforcement Officer is also our blight officer. I find that very discouraging, it seems to me that he has an awful lot on his plate, that the sign that I complained about in the center of town remains up as of this past weekend, and I just think that more attention has to be paid to the things that have to be done for this Commission before you start doing it for the blight ordinance. Just my own opinion. I'm curious about the bonds, if a contractor puts up a cash bond or they just pay a premium on a bond, and if we are holding a bond, we're holding cash, how much interest are we paying them? The last item that was mentioned regarding 100 units of assisted living, at the Veterans Hospital, they may have come before you, and spoke to you, they may have come before the Town Council, they may come before the Town Council, but just as an observer of the last project here in town, Victory Gardens, there was a meeting at the American Legion with residents and with veterans. The television stations were there, there was a lot of coverage because there was a lot of mis-information out there. So I hope that if there is a proposition or proposal or an application for 100 units on the other side of the Veterans Hospital, that the residents are notified. Not just little meetings be held with the veterans at

the Veterans Administration, or the CRT or the residents in that area, because that is what happened with Victory Gardens. They went into Old Farms Drive and a few other areas, had meetings with the residents, and other people in the town weren't informed. I don't know if it was this Commission or the Town Council that received anonymous letters from someone who was going to sue the town or do something, there was a lot of controversy over it so I hope that if this project is going to go through and it's going to be in front of this Commission that the public is made fully aware of it long before they come here because just seeing it on an agenda, some people catch it, some people don't. Maybe there can be something in the paper about it. Thank you.

Chairman Pruet: Thank you. Anybody else wish to speak?

Gayle Reduka, 38 School House Road: First of all I would like to request that all of the letters from Wethersfield be shared with this committee, ones that went to the Conservation Committee. I would be more than happy to obtain the letters and provide you all with copies. There is a lot of information in there that obtains to both the TPZ as well as Conservation Committee. On October 1st of 2012 a statute was passed stating that developers could not require home owners associations to maintain any type of catch basins. It has now become the responsibility of the town to maintain. This is something that Toll Brothers seems to think they are require their new development to maintain, but according to state statute, they cannot, so that could fall apart, and the town is going to have to deal with it. I'm not sure if it is in the purview of this Committee but I'd like to ask that a study be conducted of the Ancient Highway that borders or may even be engulfed at this point by the Toll Brothers development. It's an area that is considered an historical landmark, it's the first ever road in the area over Cedar Mountain that connected Newington and Wethersfield as far back as 1640. Toll Brothers plans to build a parking lot at the beginning of this highway, Ancient Highway and Russell Road, and how long will it be before they pave all the way over the mountain and use it as a entrance as Toll slowly but surely expands their hold on the mountain. There is a saying that Toll Brothers has tailored to make their own, it's cheaper to pay the fines for forgiveness than to go through the proper channels.

Holly Harlow, 11 Edward St: Gayle just reminded me of something about Old Highway. I don't know whose purview it is actually to have an archeological survey done of that. When the Connecticut Environmental Review Team came in last year to do a survey related to the wetlands application, the state archeologist recommended that there be historical, archeological survey be done, and since the Marcap, the former Marcap property, the Old Highway could be (inaudible) with archeological resources and I don't know if it is this body, or the Town Council that would suggest or authorize something like that, but before any construction gets done, should this project go forward, it's in our interest to know if we have any archeological resources that should be recovered and surveyed before anything happens up there, so I'm glad that she mentioned that, and also, this is probably (inaudible) again, but your, the plans for Newington Walk that have been submitted to the Wetlands Commission have the addition of the amphibian crossing. It's a tunnel that goes under the streets and someone in the public brought up the question of safety of this conduit. In order to give the animals a way to cross through the development it also opens up the hazards for people and children especially. It would be forty-eight inches or something like that, so like I said, perhaps it's nothing but maybe this is a change of the plan. If it were in the plan originally I think there would be discussion about it and I don't know how you are going to handle that but you know my feeling. That amphibian tunnel I think is something that should be discussed.

Chairman Pruet: Thank you.

Allison Clarke, 25 Wilbur Drive: I wasn't going to say anything, but when they spoke about Ancient Highway. The latest plan that came in from Toll Brothers put the parking lot on Russell Road, and then I think that the Town of Wethersfield complained about that, and then so even as late as last night, they moved the four parking spaces from Russell Road to south of Old Highway, which is a part of land which is not owned by the town. I think that land is owned by the Humane Society, so I don't know how they can put a parking lot on land that the town doesn't own and maintain.

Commissioner Aieta: We will look at that when they come in for review.

Chairman Pruet: Anyone else?

Gail Bedrejko, 21 Isabelle Terrace: I wasn't going to speak again, but I was confused about the discussion that the feeling is that Toll Brothers doesn't have to come in with a re-application because it was approved as an open space subdivision and the Town Planner said that they just have to go through and prove that they met the twenty-one conditions, but how do you know that with all of the significant modifications on these plans that new conditions haven't been created. To me it just doesn't make sense, meeting conditions that apply to an old plan, but yet if you don't look at all the changes, all the modifications there might be new changes, things that you don't know about so I think that needs a clarification.

Chairman Pruet: Anybody else from the public?

John Bachand, 56 Maple Hill Avenue: First thing is about the bond thing. I fully agree that you have to get that in order, I don't know if there is a time limit on those, I'm not sure that there should be, but if there is, you mentioned a road that's been going on for ten years, I blame the town for that, that's not the builders fault. That binder course, a binder course by definition is a course of asphalt, a little more permeable than a finished course, so you are threatening whatever infrastructure is there. You mentioned the catch basins and everything, so the drainage is not working properly either, there's a lot of things wrong with that, so I mean, one year, two years, whatever it is, soon as that time is up, you go out and do it and the guy doesn't have anything to say about getting his money back, that's it. I mean, if there is money left over, that seems to be a no brainer.

The next thing is about the home owners association owning those detention ponds, but it's a serious issue. I haven't been able to prove if that is true or not but it supposedly went in, this was a Wethersfield official, that's huge. That's a huge implication for the town. That's a big maintenance issue. Some of those detention ponds are perched about twenty feet above the wetland over there, and the wetland guys last night, one of the town's consultants spoke of a breakout or a blowout. That's a huge implication and costly to restore but also could do a lot of damage to the wetland, it's a serious issue. That is something to look at. It makes sense that the homeowners association shouldn't own those things, because obviously they are not going to take care of them. They don't have the expertise for it, they don't have the appetite for it, and they don't have the money for it if something does go seriously wrong.

The third thing is the Old Highway. I did mention to the Town Planner that I felt that the Humane Society was improperly blocking access to that entrance there. They have a sign right out there on Russell Road and they have a sign back in the woods away that says, I forgot the exact wording, but it means No Trespassing and you did send me that overlay map and you mentioned yourself it looks like their lawn is encroaching into that right of way. So, I've been parking at the end over there, and I ride my bike up there, and I get nasty looks, they walk their dogs over there, they've made improvements, they've actually got a pet cemetery, and it looks, if the lines are right with that overlay map you sent me, that some of their monuments for the pet cemetery are actually in that right of way. They put chips down on the path, that's not a big deal, I mean, they made improvements there, so eventually, you

made perfect sense, let's see what happens with the development next door before we push that issue, but I just wanted to bring it up. I'm actually for a little parking spot down there because it's near the woods.

The next thing is an issue that is next to me, 68-80 Maple Hill. The Town Planner has been pretty good about keeping me up to speed on it, I send a e-mail, and now I don't have to give him too much detail, just say, hey, anything new, and he knows exactly what I'm talking about. I just wondered if there is anything that you can share with the whole Commission here.

Chairman Pruet: Anyone else?

Rose Lyons, 46 Elton Drive: Listening to these people from Cedar Mountain talking about the catch basins and the responsibility now laying on the Town of Newington, I've had a question the last couple of years about what the Town of Newington does about it's catch basins. I've gone out and looked with Maidey, and I've talked to Commissioner Sobieski about it and maybe he can give me a little information after the meeting, but it doesn't seem to me, in what we have looked at, that the Town is even maintaining the catch basins that we have, so I have some concerns that if the contractor is not responsible, and the Town of Newington is not doing it, who is going to do it? Is it going to be up to the citizens or do we need an Eagle Scout to do it for one of his projects which is a way of having things done around town. Thank you.

Chairman Pruet: Do you want to comment on Maple Hill?

Craig Minor: Yes, two separate issues, not problems, issues with Packards Way. The developer has orally talked to the Town Engineer and me about coming back to the Commission with a plan to change the grade of the road. Her engineer submitted a drawing of the change in grade, but her engineer has not submitted the data, the drainage data, the calculations, the numbers that the Town Engineer needs to be able to do a meaningful review. Until the applicant's engineer submits the data to the town engineer he can't review the plans, so that is in limbo until her engineer gives him the data that he needs. Now separate issue, she asked me the other day would it be possible for the two existing houses, 68 and 80 Maple Hill Avenue who's driveway used to be on Maple Hill Avenue but now are going to be on Packards Way, if the Planning and Zoning Commission can give them some relief on how steep those driveways are going to be. I walked through the subdivision regulations with her, I explained to her that the subdivision regulations say that the driveways have to be a certain pitch, but if she wants to have her engineer prepare a plan, bring it to the Commission, ask for a waiver from the maximum driveway grade issue, she's welcome to do that. I told her that although I personally, well professionally, would not support a change to the road pitch issue because that, Maple Hill Avenue is a very steep road, and the thought of some resident of Packards Way coming down the hill on a winter day and hitting an ice patch and skidding into Maple Hill Avenue because we allowed a waiver from our regulations, I wouldn't sleep well with that. On the other hand, our regulation that talks about how steep a driveway can be, well maybe that is something that the Commission could talk about, because it is, it's a six lot subdivision, there's not a lot of traffic, so if somebody's driveway that comes down to Packards Way is maybe too steep, and they skid out into Packards Way, what are the odds of running into somebody? So anyway, I told her that I would not object to her coming to the Commission and asking for a waiver for the driveway grade issue, but the ball is now in her courts, she needs to have her engineer prepare the plans and bring them to you.

Commissioner Aieta: Just a question, when I drive by there, it's obvious that there are some engineering problems there, because I look at it and the roadway, the way that it is dug out

for the base, it's like four feet belong the street line. Are they complicating this thing? Are they building this to the actual plans that we approved and why is the driveway so, why does the base have to be four feet?

Craig Minor: What you are seeing now, the approved plan calls for a lot of the dirt on the right hand side, 80 Maple Hill, to be removed, so it won't be this cliff that you see now, it will be a slope. Now the homeowner feels that it will be a steep slope, well, steep is an adjective, that's relative, but according to the Town Engineer it will be gentle enough for someone to be able to mow.

Commissioner Aieta: The regulations call for a two to one slope as a maximum slope.

Craig Minor: Okay, I think this would be less than that, even more gentle than that.

Commissioner Sobieski: Talking about Ancient Highway, three hundred feet of that is town road, actually town road. On that map supplied by ConnDot every year to the town, there's three hundred feet that you are getting paid town aid for on a dirt road, so if there are signs that say, Private Road, No Trespassing, or whatever that might be, those signs should be removed from the end of that road. That is a public access road.

Chairman Pruet: Anything else from the public?

XII. REMARKS BY COMMISSIONERS

Commissioner Sobieski: From what I understand the Town of Newington has a program that they do one third or maybe one half of the catch basins every year. They actually do vacuum them out. I talked to Tom Molloy about that, so they do do cleaning. The problem is, some of the basins that are at the intersections of the state highways fall under the custody and control of the Department of Transportation. Those the DOT does not maintain as well as the town does. If there are issues where water is backing up, or if they aren't functioning, you should call the District Drainage person in Rocky Hill and have them get out and maintain them. Vacuum them out, and they will do that up until the first snow fall, if that is the issue.

Chairman Pruet: Does MDC do any of that at all?

Craig Minor: No.

Chairman Pruet: I think they strictly do the sewers.

Commissioner Sobieski: Sanitary is the MDC and this is storm sewers which is the responsibility of the agency that the road fall under, be it the DOT or the municipality. So they are cleaned, I know that, I have five of them in front of the house on Francis Avenue.

Chairman Pruet: Any other comments:

Commissioner Aieta: Just to answer some of the questions that the public had on Ancient Highway as far as what this Commission can do as far as studies. Those are issues that have to be brought to the Town Council because they require funding, and we can't do funding here at the Zoning Board. So those issues you should bring to the Town Council that you brought here as far as the issues with Ancient Highway, I would press the Town Council to, they would be the ones with the purse strings, and I hope that we answered your questions and your concerns tonight. We have rules and regulations that we have to follow. I'm one that feels that this Commission has the right and the responsibility to re-look at this

site plan approval that we approved because of the major modifications they are making. Unfortunately that process does not allow the public to participate because it is a site plan approval. Our regulations are pretty specific as to how we are to operate. Be aware I will be asking the questions that you have brought to our attention, when they come in for the site plan review.

Chairman Pruet: Anyone else?

XIII. CLOSING REMARKS BY THE CHAIRMAN

Chairman Pruet: I share what Commissioner Aieta said too. It will be no slam dunk by any developer, I don't care who it is on a project. We are going to look at it seriously. I ask you to keep us informed too with your questions. I made a list of your concerns too, the Town Planner has made a list of them too, and hopefully we will get those concerns answered to the best of our ability and to the satisfaction of the residents of the Town of Newington

XIV. ADJOURNMENT

Commissioner Aieta moved to adjourn the meeting. The motion was seconded by Commissioner Sobieski. The meeting was adjourned at 8:55 p.m.

Respectfully submitted,

Norine Addis,
Recording Secretary